

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

<p>GARRET SITTS, et al.,</p> <p>Plaintiffs,</p> <p>v.</p> <p>DAIRY FARMERS OF AMERICA, INC. and DAIRY MARKETING SERVICES, LLC,</p> <p>Defendants.</p>	<p>Civil Action No. 2:16-cv-00287-cr</p>
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DEFENDANTS DAIRY FARMERS OF AMERICA, INC. AND
DAIRY MARKETING SERVICES, LLC'S
NOTICE OF REVISED PROPOSED JURY INSTRUCTIONS

Based on the August 10, 2020 charge conference, DFA had understood that the Court intended to propose a new instruction for the “Existence of the Conspiracy” element of plaintiffs’ Section 1 claim. August 10, 2020 Charge Conference Hr’g Tr. at 57:22-58:3, ECF No. 296. For that reason DFA did not propose a revised version of that instruction as part of its submissions on August 24, 2020.¹ However, to date, the parties have not received the Court’s new proposed version of the instruction for this element. Respectfully, DFA maintains that its original proposed Instruction 22, which is based on the *Model Jury Instructions in Criminal Antitrust Cases*, is the most appropriate instruction for the particular Section 1 claim at issue in this case. However, should the Court reject that instruction, DFA alternatively proposes the “Existence of the Conspiracy” instruction, attached as Exhibit A, which is based on jury instructions 16 and 17 that

¹ Plaintiffs did not propose a new version of this instruction either.

the Court gave in *In re Processed Egg Products Antitrust Litigation*, No. 08-md-2002 (E.D. Pa.)² and the *Model Jury Instructions in Civil Antitrust Cases*.

² Instructions 16 and 17 given in *In re Processed Egg Products Antitrust Litigation*, No. 08-md-2002 (E.D. Pa.) are attached as Exhibit B.

Dated: August 31, 2020

Respectfully submitted,

/s/ Alfred C. Pfeiffer Jr.

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*Counsel for Defendants Dairy Farmers of America,
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CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2020, I electronically filed with the Clerk of Court the foregoing document using the CM/ECF system. The CM/ECF system will provide service of such filing via Notice of Electronic Filing (NEF) to the following NEF parties:

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